

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
PECOS DIVISION**

UNITED STATES OF AMERICA §
Plaintiff, §
§
vs. § Case No. 4:20-cr-388-DC
THOMAS SCOTT PERKINS §
Defendant. §

**MOTION SEEKING PERMISSION FOR DR. SAMUEL BROWNING TO APPEAR VIA
ZOOM OR OTHER VIRTUAL MEANS**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the United States of America, by and through Ashley C. Hoff, United States Attorney in and for the Western District of Texas, and the undersigned Assistant United States Attorney and hereby files this motion to seeking the Court's permission to have a Government's Witness, Dr. Samuel Browning, to appear for testimony via Zoom or other virtual means. The Government would show the following:

I.

The instant case is set to begin trial on Monday, July 18, 2022. The Court set a deadline for pretrial motions to be filed by noon, July 12, 2022. On that date, the Defense filed a witness list which consisted of Dr. James Schutte. Dr. Schutte had previously testified via Zoom or other virtual means as an expert witness for the Defense during a mental competency hearing. The Court subsequently ruled that the Defendant was competent to stand trial. After Defense filed the witness list consisting of Dr. James Schutte, the undersigned AUSA inquired with Defense whether Defense had an insanity report and if one could be provided to the Government. Defense provided the Government with a report after the Court's pretrial motion deadline. The contents

of the report led the Government to believe Defendant intended to assert an insanity defense. After that, the Government contacted Dr. Samuel Browning, the Government's expert witness that testified at Defendant's prior competency hearing. Because of the Court's ruling that Defendant was determined to be competent, the Government did not intend to call Dr. Browning to testify at trial. Dr. Browning was initially placed on the Government's prospective witness list out of abundance of caution if Defense sought an insanity defense. After confirmation by Defense counsel that they would seek an insanity defense—after the pretrial motion filing deadline—the Government confirmed with Dr. Browning that he would be needed to testify.

Dr. Browning advised the Government that he was subpoenaed to testify in federal court in the Northern District of Oklahoma on Tuesday, July 19, 2022. Dr. Browning advised the Government that he can be available via Zoom or other virtual means on Monday, July 18 and Wednesday, July 20. Dr. Browning can also be available on Tuesday, July 19 when he is not testifying in the Northern District of Oklahoma court.

WHEREFORE, premises considered, the Government herein prays that this Honorable Court enter an order granting permission for Dr. Samuel Browning to appear and testify via Zoom or other virtual means in the instant trial.

Respectfully submitted,

ASHLEY C. HOFF
UNITED STATES ATTORNEY

/s/ Scott V. Greenbaum
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Certificate of Conference

I hereby certify that on July 15, 2022, I conferred with defense counsel, AFD Michael Gorman, counsel for Defense about the instant Motion. Mr. Gorman was opposed to said motion.

/s/ Scott V. Greenbaum
Scott V. Greenbaum

Certificate of Service

I hereby certify that on July 15, 2022, I filed the instant Motion utilizing the CM/ECF system, which will provide electronic notice to the parties of the case.

/s/ Scott V. Greenbaum
Scott V. Greenbaum

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ORDER

The United States, having moved this Court for permission for Dr. Samuel Browning to appear and testify via Zoom or other virtual means. The Court, finding it to be meritorious, GRANTS said Motion. It is therefore

ORDERED, that Dr. Samuel Browning may appear and testify via Zoom or other virtual means.

Signed at Pecos, Texas this _____ day of July, 2022.

HON. DAVID COUNTS
UNITED STATES DISTRICT JUDGE